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OFFICE OF THE PRESIDENT
PERMANENT SECRETARY, SECRETARY TO THE CABINET
AND HEAD OF THE PUBLIC SERVICE

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Ref. No. **OP/CAB.9/21/2A/LII**
and date

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24th March, 2005

The Attorney General
All Permanent Secretaries
All Accounting Officers
The Registrar, High Court of Kenya



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29/03/05*

**CLARIFICATIONS ON CERTAIN ASPECTS OF
GUIDELINES ON TERMS AND CONDITIONS OF
SERVICE FOR STATE CORPORATIONS**

Following the release of the above Guidelines Ref. No. OP/CAB.9/21/2A/LII/43 of 23rd November, 2004, some State Corporations have sought clarifications on certain issues related to the provisions of the Guidelines. Others have appealed against or sought exemption from specific provisions of the Guidelines.

Some of the clarifications sought and appeals received were specific to respective State Corporations and have been considered by the State Corporations Advisory Committee and advice given on a case by case basis. However, for other issues that were commonly raised by several State Corporations, it has been found necessary to make the following clarifications.

1. Sitting Allowance

Chief Executive Officers and employees of a State Corporation are not entitled to sitting or other allowances contained in Annex IV as this would be contrary to the provisions of Section 10(1) of the State Corporations Act,

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Cap 446 as amended by the Statute Law (Miscellaneous Amendments) Act No. 2 of 2002.

2. Accommodation Allowance

Accommodation allowance is paid to Chairmen and Members of the Board to cater for their accommodation when they have to spend a night away from their usual residences while attending Board meetings or on business of the State Corporation to which they have been formally invited.

A Chairman or Board Member is not entitled to accommodation allowance when the meeting or official Corporation business is held at a venue near his/her usual residence.

3. Facilities for Chairmen

a) Office and full time Secretary

A non-executive Chairman of the Board of a State Corporation should be provided with an office with basic necessities and where practicable shared secretarial services.

b) Official Transport on full time basis.

For non-executive Chairmen, the provision of official transport on full a time basis is not justified. A Chief Executive Officer should make arrangements to provide such a Chairman with transport as and when there is need for the Chairman to travel on official business of the State Corporation. If the Chairman uses personal transport then he would have been paid mileage allowance at current Automobile Association rates.

4. Directors' Fees

- a) For State Corporations that operate under the Companies Act, Directors fees pertaining to the previous Financial/Trading year(s) should be fixed during the Annual General Meeting (AGM), and be

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based on the performance and the Audited Accounts of the respective financial year.

- b) In the case of other State Corporations, Directors fees will be fixed by their respective Boards and based on performance of the Audited Accounts of the respective financial year.
- c) Directors fees fixed as provided for under (a) and (b) above shall be submitted to the parent Ministry for prior approval before implementation.
- d) For State Corporations already on Performance Contract management, Directors fees and other performance based incentives shall be determined in accordance with Section 12(1) of the Legal Notice number 93/2004 - *The State Corporations (Performance Contracting) Regulations 2004*. These regulations will apply to all State Corporations with effect from 1st July, 2005 when all State Corporations will be put on Performance Contract management.
- e) Directors' fees payable to Directors who are Civil Servants should be remitted to the Treasury in accordance with Treasury Circulars Nos. DGIPE/A/1/10 of 19th June, 2002 and 3rd January, 2005. Similarly Directors fees payable to Directors who are employees of State Corporations should be remitted to their respective State Corporations.
- f) Any other allowance or benefit for Board Chairmen and Members not provided for in the Guidelines should have ceased by 23rd November, 2004.

By copy of this circular, the Inspector-General (Corporations) is instructed to surcharge individually or collectively any Chief Executive Officer or Board Members who authorises or continues to receive allowances or benefits not provided for in the Guidelines and clarifications thereto.

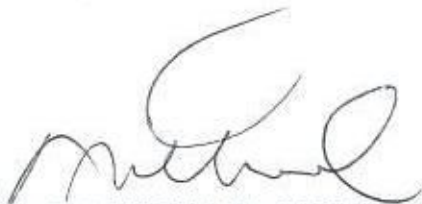
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5. Entry points of Basic Salaries of Chief Executive Officers

- a) The Guidelines provide that entry points of the basic salary of a Chief Executive Officer should not exceed the mid point given in the scales on pages 25 to 40 of the Guidelines **except in exceptional cases**. Mid points are meant to give room for annual salary progression during the tenure of the Chief Executive Officer, or salary review based on excellent performance.
- b) Incidences have been noted whereby some Chief Executive Officers have been placed at the maximum of the recommended scales without any justification that it is an exceptional case or regard to the financial position of the respective State Corporation.
- c) It is advised that restraint should be exercised while considering and approving basic salary entry point of a Chief Executive Officer taking into account the Officer's proven track record and the financial position of the respective State Corporation.

Please bring the contents of this circular to the attention of Chief Executive Officers and Board Members of State Corporations under your Ministries and ensure that they are complied with.



**AMB. FRANCIS K. MUTHAURA, EGH, MBS
PERMANENT SECRETARY, SECRETARY TO
THE CABINET AND HEAD OF THE PUBLIC SERVICE**

c.c. The Controller and Auditor-General
Kenya National Audit Office
Kencom House
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The Secretary
State Corporations Advisory Committee
KICC
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The Secretary
Permanent Public Service
Remuneration Review Board
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The Inspector-General (Corporations)
Inspectorate of State Corporations
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